IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Second Appeal No. 1187 of 2001
(Old No.638 of 2000)

State of U.P. through the Collector
Udham Singh Nagar .....Appellant

Vs

Lekhraj Taneja S/o Ram Ludhaya
R/o Ward No. 4 Gadarpur
Tehsil Gadarpur
District Udham Singh Nagar ..... Respondent

Sri J.P. Joshi, learned Standing Counsel for the State/ appellant
Sri J.C. Pandey, learned counsel for the respondent

Hon'ble B.C. Kandpal

This second appeal has been preferred by the State/appellant against the judgment and decree dated 04.02.2000 passed by District Judge, Udham Singh Nagar in Civil Appeal No. 73 of 1999 arising out of the judgment and decree dated 09.09.1999 passed by Civil Judge (Junior Division), Rudrapur District Udhma Singh Nagar in original Suit No. 11 of 1998.

2. Brief facts of the case are that the plaintiff/respondent filed a suit for permanent injunction before the Civil Judge (Junior Division), Rudrapur who decreed the suit in favour of the plaintiff/respondent vide judgment and decree dated 09.09.1999.

3. Feeling aggrieved by the aforesaid judgment and decree, the defendant/appellant preferred an appeal before the appellate court which was dismissed vide judgment and decree dated 04.02.2000.

4. Feeling aggrieved by the aforesaid judgments and decree, the appellant preferred an appeal before the Allahabad

High Court, which has been transferred to this Court after creation of separate State.

5. Heard Sri J.P. Joshi, learned counsel for the appellant, Sri J.C. Pandey, learned counsel for the respondent and perused the record.

6. Having considered the arguments advanced by the learned counsel for the parties and after perusing the entire evidence on record, I am of the view that, this second appeal is concluded by concurrent finding of facts, I, therefore, do not find any ground to interfere in the impugned judgments and orders passed by the courts below. Both the courts below have recorded concurrent finding of fact which cannot be interfered at the stage of second appeal. I also do not find any substantial question of law involved in this case.

7. The second appeal lacks merit and is liable to be dismissed.

8. Accordingly, the second appeal is dismissed in-limine.

(B.C. Kandpal, J.)

04.12.2006
ASWAL